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3 **BOARD OF PERSONNEL APPEALS**  
4 **PO BOX 6518**  
5 **HELENA MT 59604-6518**  
6 **Telephone: (406) 444-2718**  
7 **Fax: (406) 444-7071**

8 STATE OF MONTANA  
9 BEFORE THE BOARD OF PERSONNEL APPEALS

10 IN THE MATTER OF UNFAIR LABOR PRACTICE CHARGE NO. 3-2001:

11 FIREFIGHTERS LOCAL NO. 8, AFFILIATED WITH THE )  
12 INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, )

13 Complainant, )

14 - VS - )

15 CITY OF GREAT FALLS FIRE DEPARTMENT, )  
16 AFFILIATED WITH THE CITY OF GREAT FALLS, )

17 Defendant. )

18 ORDER

19 \* \* \* \* \*

20 The above-captioned matter came before the Board of Personnel Appeals on  
21 February 27, 2003. The matter was before the Board for consideration of the NOTICE OF  
22 APPEAL filed by Patrick R. Watt, attorney for the Defendant, and the NOTICE OF APPEAL,  
23 UNION'S EXCEPTIONS TO FINDING AND CONCLUSION ON ATTORNEY FEES AND COSTS filed by  
24 Timothy J. McKittrick, attorney for the Complainant, to the FINDINGS OF FACT;  
25 CONCLUSIONS OF LAW; AND RECOMMENDED ORDER issued by Anne L. MacIntyre, Chief,  
26 Hearings Bureau, dated July 15, 2002.

27 Appearing before the Board were Patrick R. Watt, attorney for the Defendant, and  
28 Timothy J. McKittrick, attorney for the Complainant. Both parties appeared in person.

After review of the record and consideration of the arguments by the parties, the  
Board concludes and orders as follows:

1. **IT IS HEREBY ORDERED** that the Hearing Officer's Findings of Fact are supported by substantial credible evidence of record and are, therefore, approved and adopted without modification.
2. **IT IS FURTHER ORDERED** that the Hearing Officer's Conclusions of Law are legally correct, however, the Board further finds an additional statutory ground for the unfair labor practice addressed in Conclusion of Law #2 and therefore modifies that conclusion as follows:
  - A. Excepting the phrase "39-31-401(1) and (5), MCA" and substituting therefore the phrase "39-31-401(1), (3) and (5), MCA".

3. **IT IS FURTHER ORDERED** that the Hearing Officer's Recommended Order is adopted as the Order of this Board, subject to the following additional provision:

h. to compensate Firefighters Local No. 8 for all reasonable, necessary and lawful costs incurred to date in the litigation of this matter.

4. **IT IS FURTHER ORDERED** that Firefighters Local No. 8 shall file an affidavit of its costs within fifteen (15) days of the date of this order. The city of Great Falls will then have fifteen days to file any objections to the costs claimed by Firefighters Local No. 8. Alternatively, the parties may file a stipulation of costs within fifteen (15) days of the date of this order.

5. **IT IS FINALLY ORDERED** that once the costs have been determined by the Board, a Final Order will be issued in this matter.

DATED this 10<sup>th</sup> day of March, 2003.

BOARD OF PERSONNEL APPEALS

By: \_\_\_\_\_

Jack Holstrom  
Presiding Officer

(First Motion: Unfair Labor Practice)

\*\*\*\*\*  
Board members Holstrom, O'Neill, Johnson, Reardon and Schneider concur.  
\*\*\*\*\*

(Second Motion: Denial of Attorney Fees)

\*\*\*\*\*  
Board members Holstrom, O'Neill, Johnson and Schneider concur.  
Board member Reardon dissents.  
\*\*\*\*\*

(Third motion: Award of Costs)

\*\*\*\*\*  
Board members Holstrom, Schneider and Reardon concur.  
Board members Johnson and O'Neill dissent.  
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**CERTIFICATE OF MAILING**

I, Jennifer Jacobson, do hereby certify that a true and correct copy of this document was mailed to the following on the 10<sup>th</sup> day of March, 2003:

PATRICK R. WATT  
JARDINE STEPHENSON BLEWETT  
& WEAVER PC  
PO BOX 2269  
GREAT FALLS MT 59403-2269

TIMOTHY J. MCKITTRICK  
MCKITTRICK LAW FIRM  
PO BOX 1184  
GREAT FALLS MT 59403-1184

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